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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/864,927	05/24/2001	Lee E. Cannon	IGT1P482X1/AG32-CIP	2424	
	7590 08/04/200 Villeneuve & Sampson	EXAMINER			
Attn: IGT	•	WONG, JEFFREY KEITH			
P.O. Box 70250 Oakland, CA 94		ART UNIT	PAPER NUMBER		
			3714		
			MAIL DATE	DELIVERY MODE	
			08/04/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
09/864,927	CANNON ET AL.		
Examiner	Art Unit		
Examino	Aironn		

NOTICE OF APPEAL 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s):		Jeπrey K. Wong	3/14	
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must intelly file one of the following replies: (1) an amendment, affaldav, or other avidation, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) □ The period for reply expires on: (1) the mailing date of the final rejection. Examinor Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for THE FINAL REJECTION. See MFEP 705 07(1). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee number 37 CFR 1.179(a) is calculated from: (1) the expiration date of the shortened saturory period for reply originally sat in the final Office action. (2) as many reduce any examed patent term adjustment. See 37 CFR 1.774(b). NOTICE OF A DEPEAL 2. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.1.37 must be filed within two months of the date of Notice of Appeal was been filed in any reply must be filed within the time period sor ferth in 37 CFR 4.1.37(a). AMENDMENTS □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.1.37(b), to avoid dismissal of the appeal. Since a Notice of Appeal was been filed, any reply must be filed within the time period set from in 37 CFR 4.1.37(a). AMENDMENTS □ The Notice of Appeal was been filed, any reply must be filed within the time period set from in 37 CFR 4.1.37(a). AMENDMENTS □ The Notice of Appeal was been filed and a final rejection, but prior to the date of filing a brief, will not be entered because (a) □ They raise the issue of new matter (see NOTE bellow); (b) □ They rai	The MAILING DATE of this communication appe	ars on the cover sheet with the c	correspondence add	ress
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expiresmonths from the mailing date of the final rejection. b) The period for reply expiresmonths from the mailing date of the final rejection. Examiner Note: if Ibox 1 is checked, check either box (a) or (b), ONLY-CHECK BOX (b) WHEN THE FIRST TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY WAS FILED WITHIN TWO MONTHS OF THE FIRAT TERFLY	THE REPLY FILED <u>08 July 2009</u> FAILS TO PLACE THIS APPL	ICATION IN CONDITION FOR AL	LOWANCE.	
a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. b) ☐ The period for reply expires on. (1) the mailing date of this Advisory Action or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for roply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box is checked, check other box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.70(a), or any extension thereof (37 CFR 41.37 (a)), to avoid dismissal of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a), to avoid dismissal of the appeal. Since a Notice of Appeal was filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) MENDMENTS a) ☐ The orthogosed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because the affordation of the setulation o	application, applicant must timely file one of the following rapplication in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidaviral (with appeal fee) in compliance	t, or other evidence, w with 37 CFR 41.31; or	which places the r (3) a Request
no event, hower, will the statutory period for roply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1. is checked, check either box (e) or (f). ONLY CHECK BOX (b) WHEN THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as a final rejection, but prior to the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. A The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They raise the issue of new matter (see NOTE below); (c) They raise not deemed to place th	<u></u>	date of the final rejection.		
MONTHS OF THE FINAL REJECTION. See MPEP 705 07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply) originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the malling date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(b), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a), and the appeal is a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):	no event, however, will the statutory period for reply expire la	ter than SIX MONTHS from the mailing	g date of the final rejection	on.
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filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They are not deemed to place the application in better form for appeal by materially rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See		iance with 37 CFR 41.37 must be t	filed within two month	s of the date of
3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):	filing the Notice of Appeal (37 CFR 41.37(a)), or any exter Notice of Appeal has been filed, any reply must be filed wi	sion thereof (37 CFR 41.37(e)), to	avoid dismissal of the	
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(c)	(a) $oxtime$ They raise new issues that would require further cor	sideration and/or search (see NO		cause
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	(c) They are not deemed to place the application in bett	•	ducing or simplifying t	he issues for
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5. Applicant's reply has overcome the following rejection(s): 6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 34.35.36.564.68.69. Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: ———————————————————————————————————	NOTE: See Continuation Sheet. (See 37 CFR 1.12	16 and 41.33(a)).		
8. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	4. $\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \$	1. See attached Notice of Non-Co	mpliant Amendment (PTOL-324).
non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) \(\) will not be entered, or b) \(\) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. \(\) The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. \(\) The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. \(\) The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. \(\) The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. \(\) Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. \(\) Other: See Continuation Sheet. /JAMES S. MCCLELLAN/				
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 34.35.38.55-64.68.69. Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). JAMES S. MCCLELLAN/	non-allowable claim(s).			
8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s). 13. Other: See Continuation Sheet.	how the new or amended claims would be rejected is prove The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 34,35,38,55-64,68,69.		I be entered and an e	xpianation of
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. Other: See Continuation Sheet.	AFFIDAVIT OR OTHER EVIDENCE			
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REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. Other: See Continuation Sheet. /Jeffrey K Wong/ /JAMES S. MCCLELLAN/	entered because the affidavit or other evidence failed to or	vercome <u>all</u> rejections under appea	l and/or appellant fail	s to provide a
12. ☐ Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s) 13. ☑ Other: See Continuation Sheet. /Jeffrey K Wong/ /JAMES S. MCCLELLAN/	10. ☐ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	n of the status of the claims after er	ntry is below or attach	ed.
13. ☑ Other: See Continuation Sheet. /Jeffrey K Wong/ /JAMES S. MCCLELLAN/	11. The request for reconsideration has been considered but	does NOT place the application in	condition for allowan	ce because:
/Jeffrey K Wong/ /JAMES S. MCCLELLAN/	 12. ☐ Note the attached Information <i>Disclosure Statement</i>(s). (13. ☐ Other: <u>See Continuation Sheet</u>. 	PTO/SB/08) Paper No(s)		
707 11120 01 11100 02 02 01 11100				
Primary Examiner, Art Unit 3714	/Jeffrey K Wong/			
		Primary Examiner, Art U	nit 3714	

Continuation Sheet (PTO-303)

Application No. 09/864,927

Continuation of 3. NOTE: The amendments to the claims raise new issues that would require further search and consideration by the Examiner..

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Continuation of 13. Other: The applicant alleges: "There is absolutely no disclosure in Bennett of initiating a tournament game of chance in a multi-player tournament in response to the occurrence of one or more qualifying outcome events of a primary game of chance. Rather, in Bennett, the controller 101 decides, apparently arbitrarily, when to initiate tournament play. The initiation of tournament play does not occur in response to a qualifying outcome event of Bennett's base slot game. In Bennett, the initiation of a tournament is not based on the occurrence of a qualifying event of a primary game, such as a winning outcome of the primary game. (Applicants' specification, (Paragraph[0020, 0055]). Instead, in Bennett, a tournament is triggered during routine game play. As explained in Bennett, "when the tournament is triggered during play of the base slot game, the same feature game will be displayed on every participating machine. (Col. 6, lines 47-50)."

The Examiner disagrees. Bennett discloses in Col. 6, lines 47-50, "...when the tournament is triggered during play of the base slot game..." This can clearly be viewed as a direct result of the primary game. In order for the tournament to be 'triggered', there would need to be some event that would cause said tournament to be 'triggered' in the first place. For example, much like the way it is well known in the art that a secondary/bonus game for a slot machine can be 'triggered' to a certain 'trigger' symbol or combination of symbols being determined in the primary/base game, the same scope can be applied for 'triggering' tournament play. The use of 'trigger' clearly indicates that tournament play commences as a direct result of the outcome of the base game. Also, there is nothing in the claim that discloses one or more qualifying outcome events.

"Unlike Applicants' claimed invention, Acres do not change the permitted rate of game play of a tournament game in response to an occurrence of a specific game outcome which may occur during play of the tournament game. Instead, in Acres, the game speed of a primary game is changed "in accordance with the demand on the casino floor." (paragraph [0012]). That is, the game speed is increased and the payback percentage decreased during high demand periods. (Id). Therefore, for at least these reasons, Applicants' claimed invention as set out in claim 34 and its dependent claims would not have been obvious in view of Acres, Pascal et al. and Bennett."

The Examiner disagrees. Acres teaches in the Abstract that "the behavior of each machine is controlled by configuring selected parameters such as game speed, payback percentage, or game appearance." Paragraph 17 teaches "The present invention comprises a method of configuring electronic gaming machines interconnected by a computer network to a host computer. Selected configuration parameters are implemented at each machine. A plurality of variables related to play on the gaming machines are monitored. A predetermined criterion for one of the variables is established. After play is permitted to occur at the machines, one of the machines is selected when the established criterion is met. The configuration parameter of the selected machine is changed in responsive to a computer command.". Paragraph 56 teaches that "the RAM in MCI 50 is programmed to monitor variables related to play on the gaming machine, such as coin in, coin out, player status, time that machine is played, etc." In this case, the coin out is viewed as the occurrence of a game outcome since it is obvious that a game outcome would result in a payout. Also, there is nothing disclosed of an occurrence of specific game outcome in the claim language.

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